Entered on Docket February 05, 2015 EDWARD J. EMMONS, CLERK **U.S. BANKRUPTCY COURT**

NORTHERN DISTRICT OF CALIFORNIA



1 The following constitutes the order of the court. Signed February 5, 2015 2 3 4 William J. Lafferty, III U.S. Bankruptcy Judge 5 6 7 UNITED STATES BANKRUPTCY COURT 8 NORTHERN DISTRICT OF CALIFORNIA 9 OAKLAND DIVISION 10 In re Bankruptcy Case No. 14-42712 WJL 11 Mohammad Arabhosseini, 12 Lubna Rashid Arabhosseini, Chapter 7 13 Debtors. 14 15 Majid Foroutan, Forozand D. Tehrani, Adversary Proceeding No. 14-0413516 Plaintiffs, 17 18 V. 19 Mohammad Arabhosseini, Lubna Rashid Arabhosseini, 20 Defendants. 21 22 23 24 25

MEMORANDUM AFTER HEARING

The above-captioned adversary proceeding was filed by Majid Foroutan and Forozand D. Tehrani ("Plaintiffs") on September 9, 2014 (Doc. 1). A Summons was issued on September 30, 2014 (Doc. 2). On November 5, 2014, Certificates of Service were filed (Docs. 7, 8). The Certificates of Service indicated that Plaintiffs served Mohammad Arabhosseini and Lubna Rashid Arabhosseini ("Defendants") with a copy of the Complaint and the Summons on October 23, 2014. On January 26, 2015, Plaintiffs filed a Request for Clerk's Entry of Default (Doc. 11). On February 3, 2015, Plaintiffs filed an Amended Request for Entry of Default (Doc. 12). A hearing was held on February 4, 2015. Majid Foroutan appeared on his own behalf.

At the hearing the Court notified Plaintiffs that their requests for an entry of default would not be granted due to a defect in service of the Summons and Complaint. Under Federal Rule of Bankruptcy Procedure 7004(e), as in effect at the relevant time, Plaintiffs were required to serve the Summons and Complaint on Defendants within fourteen (14) days after the Summons was issued. The Summons was issued on September 29, 2014. The Summons and Complaint were not

served on Defendants until October 23, 2014. The Summons was not served within fourteen (14) days of issuance and, as a result, the Summons was stale when finally issued.

The Court informed Plaintiffs that the Clerk of Court would issue a new summons, which would need to be served on Defendants. The Clerk of Court issued a new Summons ("Second Summons") on February 4, 2015 (Doc. 13). The Court informally mentioned that Plaintiffs would have fourteen (14) days from the issuance of the Second Summons to serve Defendants. The Court's statement, the product of a momentary lapse of memory, was incorrect. After the conclusion of the hearing the Court recalled the amendment to Rule 7004(e), which took effect on December 1, 2014. Court would like to call Plaintiffs' attention to the amended rule and correct any misconception caused by the Court's statements at the hearing. Under the amended Rule 7004(e), Plaintiffs have seven (7) days from the issuance of the Second Summons, which took place on February 4, 2015, to serve Defendants with the Second Summons and the Complaint.

END OF MEMORANDUM

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1	COURT SERVICE LIST
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3	9045 Fair Oaks Blvd. Carmichael, CA 95608
4	Mohammad Arabhosseini
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